

NO. PD-0254-18

IN THE TEXAS COURT OF CRIMINAL APPEALS

FILED
COURT OF CRIMINAL APPEALS
3/14/2019
DEANA WILLIAMSON, CLERK

CRAIG DOYAL,

Appellee,

VS.

THE STATE OF TEXAS

Appellant.

ON DISCRETIONARY REVIEW FROM THE NINTH
COURT OF APPEALS DISTRICT OF THE STATE OF TEXAS
CAUSE NO. 09-17-00123-CR

Appellant's Unopposed Motion for Extension of Time
To File Motion for Rehearing

TO THE HONORABLE COURT OF CRIMINAL APPEALS:

Appellant State of Texas respectfully moves for a forty-six day extension of time to April 29, 2019 in which to file its Appellant's Motion for Rehearing and, in support thereof, would respectfully show as follows:

1. The Court issued its opinion in this case on February 27, 2019. Therefore, in accordance with TEX. R. APP. P. 79.1, the deadline for the State to file a Motion for Rehearing is March 14, 2019. Pursuant to TEX. R. APP. P. 79.6, the

State requests an extension of time of forty-six days in which to file its Motion for Rehearing.

2. In a 23-page opinion, the Court found that the statute at issue in the indictment, TEX. GOV'T CODE § 551.143, is unconstitutionally vague on its face. Justice Slaughter wrote a 30-page opinion concurring with the Court's conclusion that § 551.143 is unconstitutional, but not unconstitutionally vague. Justice Yeary wrote a 20-page dissenting opinion, joined by Justice Newell, finding that § 551.143 is not facially unconstitutional either on vagueness or First Amendment grounds.

3. The State seeks to file a Motion for Rehearing to address the many strands of analysis of the several opinions and the hypotheticals posed by the Court. The Court is, of course, fully aware of the magnitude of the impact of its ruling for basic governance in the State of Texas and the implications of the Court's analysis for the language of potential bills that the Legislature may seek to pass to fill the hole an opinion upholding the finding of unconstitutionality of § 551.143 leaves in the Texas Open Meetings Act. Indeed, the ramifications of the Court's opinion are nationwide in scope.

4. Given the complexity and importance of the issues involved, the State seeks an extension of time of forty-six days, until April 29, 2019, to file its Motion for Rehearing.

5. Counsel *pro tem* for Appellant have busy practices. Among other significant matters counsel are working on during this period are:

- a. *Stephen Gonzalez, Individually and as Representative of the Estate of Estella Pena v. Comcast of Houston, LLC, Comcast Corporation and Aaron Saenz*, Cause No: 2018-11105 in the 189th Judicial District Court, Harris County, Texas: a wrongful death suit.
- b. *University of Texas v. Paxton*, Cause No. D-1-GN-15-003417 in the 419th Judicial District Court, Travis County, Texas: a case under the Texas Public Information Act.
- c. *Clara Washington, Individually and anf of L.W., a minor v. Julius Herron, Comcast of Houston, LLC and Comcast Business Communications LLC*, Cause No: 2017-62771 in the 269th Judicial District Court, Harris County, Texas.

6. This is Appellant's first request for an extension of time to file its Motion for Rehearing.

7. Appellee Doyal does not oppose this motion.

The State of Texas prays the Court to grant its request for an extension of time of forty-six days to April 29, 2019 to file its Motion for Rehearing, and for all other and further relief to which it may show itself entitled.

Respectfully submitted,

/s/ Joseph R. Larsen

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**ATTORNEYS PRO TEM FOR
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CERTIFICATE OF CONFERENCE

I hereby certify that I have conferred with counsel for Appellee Doyal who has advised that he is unopposed to this motion.

/s/ Joseph R. Larsen
JOSEPH R. LARSEN

CERTIFICATE OF SERVICE

I certify that on March 14, 2019, I caused to be electronically filed the foregoing Motion with the Clerk of the Court through an electronic service provider which will send notification of such filing to all counsel of record as noted below:

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